Supreme Court, U.S.
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In The

Supreme Court of the United States

PAUL BIGHAM,

Petitioner,

v.

LADDIE HUFFMAN, SHERIFF OF CLAY COUNTY, MISSISSIPPI, IN HIS OFFICIAL AND INDIVIDUAL CAPACITY,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

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28pp

QUESTIONS PRESENTED

1. Does the rule of *Reeves v. Sanderson Plumbing Products, Inc.*, ___ U.S. ___, 120 S.Ct. 2097 (2000) that employment discrimination cases can be proven by indirect evidence, also mean that First Amendment retaliation cases can be proven by indirect evidence?

2. Is direct evidence required to prove that one was arrested because of First Amendment free speech rights?

LIST OF PARTIES

The following is a list of all parties to the proceedings in the Court below, as required by Rule 24.1(b) and Rule 29.1 of the Rules of the Supreme Court of the United States.

a. Paul Bigham, Plaintiff/Appellant;

b. Laddie Huffman, Defendant/Appellee;

c. Jim Waide, Attorney for the Plaintiff/Appellee;

d. Wendell Trapp, Attorney for the Defendant/Appellant; and

e. Clay County, Mississippi.

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OPINIONS BELOW

The Opinion of the United States District Court for the Northern District of Mississippi and the Order affirming it by the Court of Appeals for the Fifth Circuit were unreported. They are attached in the Appendix.

JURISDICTION

This Court has jurisdiction to review the decision of the United States Court of Appeals for the Fifth Circuit entered on June 2, 2000, by Writ of Certiorari under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Seventh Amendment to the United States Constitution provides:

> In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, . . .

The United States Constitution, Amendment One provides: "Congress shall make no law . . . abridging the freedom of speech . . . ".

The United States Constitution, Amendment Four provides:

> The right of the people to be secure in their persons . . . against unreasonable searches and seizures, shall not be violated, and no warrant shall issue, but upon probable cause . . .

STATUTORY PROVISION INVOLVED

42 U.S.C. § 1983 provides:

> Every person who, under color of any statute . . . subjects or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights . . . secured by the Constitution and laws, shall be liable to the party injured in an action at law . . .

STATEMENT OF THE CASE

Petitioner Paul Bigham, a former chief deputy sheriff of Clay County, filed his Complaint against the Clay County Sheriff, individually, and Clay County, Mississippi, to recover damages for arrest without probable cause in violation of the Fourth Amendment, and arrest because of exercise of free speech rights in violation of the First Amendment. R. Vol. 1, pp. 1-6.

On October 8, 1999, the District Court for the Northern District of Mississippi granted the Motion for Summary Judgment filed by Defendants Clay County Sheriff Huffman and Clay County, Mississippi on grounds of insufficient evidence. *Id.* at 365-370.

While the District Court's decision predated *Reeves v. Sanderson Plumbing Products, Inc.*, ___ U.S. ___, 120 S.Ct. 2097 (2000), the Fifth Circuit affirmed based upon the district court's opinion without citing *Reeves*.

STATEMENT OF THE FACTS

The following facts are from Bigham's affidavits, depositions and interrogatories. Consistent with *Reeves*, 120 S.Ct. at 2110, any evidence of movant, contradicted by non-movant's evidence, is disregarded.

Commencing in the summer of 1995, Petitioner Bigham began receiving information from jail inmates that the Defendant Sheriff was utilizing inmate labor at the jail for private gain. R. Vol. 1, pp. 251-253. Bigham confirmed this information by walking on the public street behind the jail and observing inmates working on private vehicles, and constructing barbeque grills. *Id.* at 253. Bigham relayed this information to the public through numerous newspaper reports and letters to the editor, charging the Sheriff with the illegal use of inmate labor. *Id.* at 255, 262-264. Additionally, he reported the Sheriff's misconduct to several public officials. *Id.* at 254-255, 262-264, 311-313.

At the time of Bigham's arrest by the Sheriff, there was no policy against members of the public using the street behind the jail. *Id.* at 297. In fact, the street behind the jail provided access to county offices, such as the Department of Human Services and the 4H Club, and was used by the public in general. *Id.* at 268.

On July 9, 1997, the day after Bigham had written a letter to the editor about the Sheriff's illegal activity, Sheriff Huffman confronted Bigham while he was on the public street behind the jail. The Sheriff shook his finger in Bigham's face and told him, "I've had all of you I'm going to take," and promised to arrest Bigham if he came into the area behind the jail again. *Id.* at 255. As Bigham

walked away from the Sheriff, the Sheriff nearly ran over him in the Sheriff's law enforcement vehicle. *Id.* at 262-263.

Later that same day, Bigham returned with a camera and drove his private vehicle onto the street behind the jail, hoping to obtain a picture of the inmates doing work for the Sheriff's private gain. When Bigham arrived back at his home, the Sheriff confronted him and arrested him for trespassing and disorderly conduct. The Sheriff directed that Bigham could be released from jail only if he posted a *cash* bond. *Id.* at 262-263.

After the district attorney failed to prosecute the criminal charges brought by the Sheriff against Bigham, Bigham commenced this action, alleging he was arrested in retaliation for exercise of his First Amendment Rights, and without probable cause.

The District Court dismissed the First Amendment Claim, on the grounds that Bigham lacked any direct evidence that his free speech was the cause of his arrest. The district court noted Bigham's admission that he has "never heard any statement or seen any document that would lead him to believe Huffman arrested him in retaliation for his speech." District Court Opinion, pp. 4-5.

The Fifth Circuit affirmed the grant of summary judgment by incorporating the District Court's pre-*Reeves* opinion. Bigham requests this Court hear the case because the decision of the Fifth Circuit Court of Appeals contravenes the *Reeves'* holding that indirect evidence is not necessary to prove illegal motive.

REASON FOR GRANTING THE PETITION

I.

THE WRIT SHOULD BE GRANTED BECAUSE THE DISTRICT COURT'S DECISION IS INCONSISTENT WITH *REEVES V. SANDERSON PLUMBING PRODUCTS, INC.*, ___ U.S. ___, 120 S.CT. 2097 (2000) AND WITH THE MAJORITY OF THE CIRCUITS WHICH HOLD THAT DIRECT EVIDENCE IS NOT REQUIRED TO PROVE AN ILLEGAL INTENT.

The District Court Opinion, affirmed by the Fifth Circuit, makes clear that Bigham's case failed because he did not present direct evidence that his arrest was caused by his speech. District Judge Davidson's opinion of October 8, 1999, says: "On the contrary, Bigham admitted during his deposition that he never heard any statement or seen any document that would lead him to believe that Huffman arrested him in retaliation for his speech."

This holding, that direct evidence, such as a "statement" or a "document," to prove illegal intent is required, contravenes *Reeves v. Sanderson Plumbing Products, Inc.*, ___ U.S. ___, 120 S.Ct. 2097 (2000). *Reeves* holds that indirect evidence *is* sufficient to prove discriminatory intent. Contrary to the view of some of the circuit courts of appeals, *Reeves* held direct evidence is not necessary to prove employment discrimination, but that indirect evidence from which a jury could infer discriminatory intent is sufficient. Recognizing that "there will seldom be eye witness testimony to the employer's mental processes," *Reeves* rejected the Fifth Circuit's requirement of direct evidence. *Reeves* at 2105.

Notwithstanding *Reeves*, the Fifth Circuit, in this case, again held that direct evidence was required in the

form of "statements" or a "document" in a First Amendment retaliation case. However, there is no basis upon which to distinguish *Reeves* from this case. Just as "there will seldom be eye witness testimony to the employer's mental processes" when he fires an older plaintiff, *Reeves* at 2105, there will seldom be eye witness testimony that the sheriff was retaliating because of exercise of First Amendment Rights when he made an arrest.

The type of indirect evidence relied upon in *Reeves* is identical to the evidence relied upon by Bigham in this case. In *Reeves*, this Court noted that plaintiff, who was suing for age discrimination, had been treated differently from younger employees. This is one type of evidence, which Petitioner produced in this case. Bigham produced evidence that the public generally used the road behind the jail, without being arrested by the Sheriff. However, when Bigham used the same road other members of the public used for the purpose of taking pictures of illegal activity by the Sheriff, and after writing letters criticizing the Sheriff, Bigham was arrested.

That *Reeves* is not limited to employment discrimination cases is demonstrated by *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 158-59 (1970). In *Adickes*, the lower federal courts had approved a grant of summary judgment, where plaintiff (who had participated in a sit-in) had no direct evidence that the sit-in was the reason for the arrest.

This Court however, held that the close proximity in time between participation in the sit-in and the arrest was sufficient to permit a fact-finder to infer a retaliatory intent, even though there was no direct evidence. *Adickes*,

therefore, reversed a grant of summary judgment in favor of defendant.

Similarly, in *Hunt v. Cromartie*, 526 U.S. 541, 119 S.Ct. 1545, 1552 (1999), there was no direct evidence of racial discriminatory intent in drawing a gerrymandered district. This Court did not require such direct evidence of intent, but said that the fact-finder could infer intent from the gerrymandering. This Court wrote:

> . . . Reasonable inferences from the undisputed facts can be drawn in favor of a racial motivation or in favor of political motivation finding . . . [I]t was error in this case for the District Court to resolve the disputed fact of motivation at the summary judgment stage.

119 S.Ct. at 1552.

Here, a fact-finder can resolve the disputed issue of motivation either by crediting the Sheriff's testimony that he was legitimately arresting Bigham for trespassing, or can infer that the real reason for the arrest was because of the exercise of free speech. Just as in *Hunt v. Cromartie*, this is a jury question. As this Court stated in *Morissette v. United States*, 342 U.S. 246, 274 (1952):

> However clear the proof may be, or however incontravertable it may seem to the judge to be the inference of a criminal intention, the question of intent can never be ruled as a question of law, but must always be submitted to the jury.

The Fifth Circuit's decision is inconsistent with the *Reeves* emphasis on the necessity of drawing all reasonable inferences in favor of the non-moving party. *Reeves* states:

> . . . [T]he Court must draw all reasonable inferences in favor of the nonmoving party . . . [T]he . . . drawing of legitimate inferences from the facts are jury functions . . .

Reeves, 120 S.Ct. at 2110.

By affirming on the basis of the pre-*Reeves* district court opinion, the Fifth Circuit neglects this fundamental lesson of *Reeves*. Had the trial court drawn all reasonable inferences in favor of Bigham, there would have been an issue of material fact as to whether Bigham was arrested for exercise of First Amendment Rights. For example, Bigham was arrested the day after he had written his latest letter to the editor criticizing the Sheriff's illegal activities. He was arrested for being on property which everyone else is free to use. If reasonable inferences are drawn in favor of the non-movant, it could be inferred that he was arrested because he had exercised his First Amendment Rights by writing the letters to the editor.

One can reconcile this case and *Reeves* only by assuming that there is some unstated distinction between employment discrimination cases, and First Amendment retaliation cases. It has long been clear in the case of employment discrimination cases, that one can draw an inference of discrimination from the fact that an adverse action is taken shortly after exercise of a protected right. *See*, for example, *Mathews v. Triology Communications, Inc.*, 143 F.3d 1160, 166 (11th Cir. 1988) (causality between the termination and participation in a self-insured medical plan can be established by circumstantial evidence, such as proof that the discharge followed an exercise of protected right so closely in time as to justify an inference of retaliatory motive).

In disregarding the fact that Bigham's arrest followed immediately after his exercise of free speech rights, the Fifth Circuit obviously believes that the close connection in time method of proof does not apply in First Amendment retaliation cases. Yet, there is no basis for their distinction between First Amendment cases and employment discrimination cases.

Other Fifth Circuit cases have also granted summary judgment or directed verdicts despite the presence of issues of intent. *See Gallery v. Domtar Industries, Inc.*, 95 F.3d 1320, 1326 (5th Cir. 1996) (the presence of an intent issue does not automatically preclude summary judgment); *Budenheimer v. PPG Industries, Inc.*, 5 F.3d 955, 956 n. 3 (5th Cir. 1993) (summary judgment is never precluded because state of mind is at issue); *Vadie v. Mississippi State Univ.*, ___ F.3d ___, ___ (5th Cir. 2000) (98-60784) (holding, contrary to *Reeves*, that circumstantial evidence including *prima facie* case, proof that plaintiff was far better qualified than successful applicant, and falsity of reasons for employment decision was insufficient to create a jury issue of race/national origin employment discrimination).

The Fifth Circuit's continuing requirement of direct evidence of the state of mind is inconsistent both with the teachings of this court, and those of other circuits. *See United States Postal Serv. Bd. of Governors v. Aikens*, 460 U.S. 711, 716-17 (1993) ("The state of a man's mind is as much a fact as the state of his digestion"); *Young v. Quinlan*, 960 F.2d 351, 360 n. 21 (3rd Cir. 1992) ("a party's state of mind is inherently a question of fact which turns on credibility"); *Wren v. Spurlock*, 798 F.2d 1313, 1317 (10th Cir. 1986) (in a retaliation case the question of

whether the action was motivated by plaintiff's exercise of Constitutional Rights, "raises a question of fact for the jury"); *Wilson v. Seiter*, 893 F.2d 861, 866 (6th Cir. 1990) ("inasmuch as a determination of someone's state of mind usually entails the drawing of factual references as to which reasonable men might differ – summary judgment is inappropriate").

Of course, requiring direct evidence of the state of mind transfers the power to decide cases from a judge to a jury. The rationale of *Beacon Theaters, Inc. v. Westover*, 359 U.S. 500, 501 (1959), thus applies:

> Maintenance of the jury as a fact-finding body is of such importance and occupies so firm a place in our history and jurisprudence that any seeming curtailment of the right to a jury trial should be scrutinized with the utmost care.

See Patricia Ann Wall, *Summary Judgment at 60*, 76 Tex. L. Rev. 1897, 1989 (1998), which said:

> Summary judgment has assumed a much larger role in civil case dispositions than its traditional image portrays, or even the test of Rule 56 would indicate, to the point where fundamental judgments about the value of trials and especially trials by jury may be at stake. A reassessment of Rule 56 and its erratic history may be in order, lest it develop into a stealth weapon for clearing calendars.

See also, Ann C. McGinley, *Credulous Courts in the Tortured Trilogy: The Improper Use of Summary Judgment in Title VII and ADA Cases*, 34 B.C.L. Rev. 303, 307 (1993) (lower court have granted summary judgment in cases where there exist questions of fact concerning motive, thereby denying plaintiffs their "day in court" as promised by the

American Model of Litigation); Ruth Coker, *The American With Disabilities Act: A Windfall for Defendants*, 34 Harv. L. Rev. 99 (1999) (by labeling almost all questions under the Americans With Disabilities Act to as questions of law, trial judges have granted summary judgments or motion to dismiss in four hundred and forty-eight (448) of four hundred and seventy-five (475) cases (ninety-four percent (94%) of Americans With Disabilities Act cases); Eric Schnapper, *Judges Against Juries: Appellant Review of Federal Jury Verdicts*, 1989 Wis. L. Rev. 237, 248-49 (1989) (statistical evidence indicates grants of summary judgments are much higher in civil rights cases than other types of litigation); Charles Wolfram, *The Constitutional History of the Seventh Amendment*, 57 Minn. Law. Rev. 639, 671-77 (1973) (the Seventh Amendment was adopted because of fear that life tenured federal judges would favor the "money class"); Laura Gaston Dooley, *Our Juries, Our Selves: The Power, Perception and Politics of the Civil Jury*, 80 Corn. L. Rev. 325, 328 (1995) ("The marginalzation of the jury undermines a democratic vision of full participation and may discourage citizen respect for the legal system in general").

CONCLUSION

By neglecting to discuss *Reeves v. Sanderson Plumbing Products, Inc.*, ___ U.S. ___, 120 S.Ct. 2097 (2000) when affirming the district court's pre-*Reeves* grant of summary judgment, the Fifth Circuit Court of Appeals has manifested an intent to either narrowly construe or ignore *Reeves*.

This Court should grant the Writ and set the case for oral argument. Alternatively, this Court should grant the Writ and remand for reconsideration in view of *Reeves*.

Respectfully submitted,

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IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-60724
Summary Calendar

PAUL BIGHAM,

Plaintiff-Appellant,

versus

LADDIE HUFFMAN, Sheriff of Clay County, Mississippi, in his official and individual capacity,

Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Mississippi
(D.C. No. 1:98-CV-208-D-D)

(Filed Jun. 02, 2000)

Before REAVLEY, BARKSDALE and STEWART, Circuit Judges.

PER CURIAM:*

We affirm for the reasons given by the district court in its opinion dated October 8, 1999.

AFFIRMED.

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*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

PAUL BIGHAM, PLAINTIFF

vs. No. 1:98cv208-D-D

LADDIE HUFFMAN, Sheriff of Clay County, MS, in his official and individual capacities, DEFENDANT

OPINION

(Filed Oct. 12, 1999)

Presently before the court is the Defendant's motion for summary judgment. After careful consideration, the court finds that the motion should be granted.

Factual Background

The Plaintiff, Paul Bigham ("Bigham"), was a deputy sheriff in Clay County, Mississippi, from January 1992 until September 1995. Upon his termination from that position, Bigham began making statements, including writing letters to a local newspaper, voicing his opinion about the job performance of his erstwhile supervisor, Clay County Sheriff Laddie Huffman ("Huffman"). Among other topics, Bigham's statements and letters chided Huffman for using inmate labor inappropriately, including to wash privately owned vehicles.

As part of his activities, Bigham would walk or drive along a rear driveway of the Clay County Jail. This enabled him to stand within a couple of feet of the rear of the jail complex where he would attempt to observe

inmate activity taking place inside the jail. On July 9, 1997, despite having been previously warned by Huffman to stay away from the rear area of the jail, Bigham took a walk along the driveway and peered into the jail. Huffman, who was driving along the driveway, saw Bigham and again warned him to stay off the driveway or he would be arrested for trespassing. Bigham left the area but returned minutes later in his vehicle. Huffman, after watching Bigham drive through the area, followed Bigham and arrested him for trespass and disorderly conduct – failure to obey the lawful command of a law enforcement officer. Bigham was confined in the Clay County Jail for about twelve hours and was released.

Since that time, Bigham, who has not been cited or arrested since the July 1997 incident, has continued his verbal and written campaign concerning the conduct and fitness of Huffman to serve as the Sheriff of Clay County. Bigham filed this action in July 1998 claiming that his arrest violated the First and Fourth Amendments to the United States Constitution. Now, Huffman has moved for summary judgment.

Summary Judgment Standard

On a motion for summary judgment, the movant has the initial burden of showing the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 325, 106 S. Ct. 2548, 2554, 91 L. Ed. 2d 265 (1986). Under Rule 56(e) of the Federal Rules of Civil Procedure, the burden then shifts to the non-movant to "go beyond the pleadings and by . . . affidavits, or by the 'depositions,

answers to interrogatories, and admissions on file,' designate 'specific facts showing that there is a genuine issue for trial.' " *Celotex Corp.*, 477 U.S. at 324. While all legitimate factual inferences must be viewed in the light most favorable to the non-movant, Rule 56(c) mandates the entry of summary judgment "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255, 106 S. Ct. 2505, 2513, 91 L. Ed. 2d 202 (1986); *Celotex Corp.*, 477 U.S. at 322. Before finding that no genuine issue for trial exists, the court must first be satisfied that no reasonable trier of fact could find for the non-movant. *Matsushita Elec. Indus. v. Zenith Radio Corp.*, 475 U.S. 574, 587, 106 S. Ct. 1348, 1356, 89 L. Ed. 2d 538 (1986).

Discussion

A. Arrest Without Probable Cause

The Fourth Amendment to the United States Constitution provides that citizens have the right to be free from arrest without probable cause. *Mangieri v. Clifton*, 29 F.3d 1012, 1016 (5th Cir. 1994). Whether an arresting officer had probable cause depends on whether, at the time of the arrest, the facts and circumstances within the officer's knowledge would support a reasonable person's belief that the arrested individual had committed or was committing an offense. *Beck v. Ohio*, 379 U.S. 89, 91, 85 S. Ct. 223, 225, 13 L. Ed.2d 142 (1964); *Hart v. O'Brien*, 127 F.3d 424, 444 (5th Cir. 1997). Bigham asserts that his arrest for trespass and disorderly conduct – failure to obey the

lawful command of a law enforcement officer was without probable cause. The undisputed facts, however, indicate otherwise; no genuine issue of material fact regarding this claim exists and Huffman is entitled to judgment as a matter of law.

Section 97-17-97 of the Mississippi Code provides that "any person [who goes] upon . . . the land of another, after having been forbidden to do so, . . . shall be guilty of a misdemeanor." The driveway that Bigham utilized is indisputably located on Clay County property and has never been dedicated by the County as a public thoroughfare. Additionally, Bigham was on notice that the area was off-limits because Huffman had previously forbidden him from coming into the area. The facts and circumstances within Huffman's knowledge at the time of Bigham's arrest were that Bigham came upon County property after having been forbidden to do so – thereby committing the offense of trespass. Clearly, Huffman had probable cause to arrest Bigham for trespass since the facts and circumstances within Huffman's knowledge at the time of Bigham's arrest would support a reasonable person's belief that Bigham had committed the offense of trespass.

Likewise, probable cause existed for Huffman's arrest of Bigham for disorderly conduct – failure to obey the lawful command of a law enforcement officer. Section 97-35-7 of the Mississippi Code provides that "whoever, . . . under such circumstances as may lead to a breach of the peace, . . . fails or refuses to promptly comply with or obey a request, command, or order of a law enforcement officer, . . . shall be guilty of disorderly conduct, which is made a misdemeanor." Indisputably,

Bigham refused to comply with Huffman's request for Bigham to leave the area behind the jail and not return. Likewise, the circumstances surrounding this incident are such that a breach of the peace may have occurred. At the time of the arrest, Huffman was aware both these facts. So, at the time of the arrest, the facts and circumstances within Huffman's knowledge would support a reasonable person's belief that Bigham had committed the offense of disorderly conduct. Hence, probable cause for Bigham's arrest existed.

Based on the foregoing, the court finds that there is no genuine issue of material fact regarding this claim and Huffman is entitled to judgment as a matter of law.

B. First Amendment Retaliation

In order to establish a *prima facie* case of retaliation under the First Amendment, Bigham must show that:

(1) the defendant was acting under color of state law;

(2) the plaintiff engaged in activity that is protected under the First Amendment; and

(3) the plaintiff's exercise of his First Amendment rights was a substantial or motivating factor for the defendant's actions.

Harrington v. Harris, 118 F.3d 359, 365 (5th Cir. 1997).

No dispute exists as to Bigham's ability to show that elements one and two are true. However, Bigham has not submitted any evidence or identified any genuine issues of material fact as to the third element and, based on the

undisputed facts, summary judgment on this claim in favor of Huffman is appropriate.

Bigham bears the burden of setting forth specific facts showing that there is a genuine issue for trial; to that end, he has presented no competent evidence as to whether his exercise of his First Amendment rights were a substantial or motivating factor for Huffman's actions. Aside from Bigham's conclusory and insufficient allegations of retaliation, there is no indication in the record that Bigham's exercise of his First Amendment rights motivated Huffman's actions. On the contrary, Bigham admitted during his deposition that he has never heard any statement or seen any document that would lead him to believe that Huffman arrested him in retaliation for his speech. In light of Bigham's failure to set forth sufficient specific facts showing that a genuine issue for trial exists, there is no disputed issue of material fact and Huffman is entitled to judgment as a matter of law on this claim.

A separate order in accordance with this opinion shall issue this day.

This the 9th day of October 1999.

/s/ Glen H. Davidson
United States District
Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

PAUL BIGHAM, PLAINTIFF

vs. No. 1:98cv208-D-D

LADDIE HUFFMAN, Sheriff of Clay County, MS, in his official and individual capacities, DEFENDANT

ORDER

Pursuant to an opinion issued this day, it is hereby ORDERED that

(1) the Defendant's Motion for Summary Judgment is GRANTED;

(2) all remaining pending motions are DENIED AS MOOT; and

(3) this case is CLOSED.

All memoranda, depositions, declarations and other materials considered by the court in ruling on these motions are hereby incorporated into and made a part of the record in this action.

SO ORDERED, this the 9th day of October 1999.

/s/ Glen H. Davidson
United States District Judge

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-60724
Summary Calendar

D.C. Docket No. 1:98-CV-208-D-D

(Filed Jun. 2, 2000)

PAUL BIGHAM

Plaintiff-Appellant

v.

LADDIE HUFFMAN, Sheriff of Clay County, Mississippi, in his official and individual capacities

Defendant-Appellee

Appeal from the United States District Court for the Northern District of Mississippi, Aberdeen.

Before REAVLEY, BARKSDALE and STEWART, Circuit Judges.

JUDGMENT

This cause was considered on the record on appeal and the briefs on file.

It is ordered and adjudged that the judgment of the District Court is affirmed.

IT IS FURTHER ORDERED that plaintiff-appellant pay to defendant-appellee the costs on appeal to be taxed by the Clerk of this Court.

ISSUED AS MANDATE: JUN 28 2000